IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION(CIVIL) NO.176 OF 2004

Yakub S. ..Petitioner.

V/s.

Kaushal Kishore. ..Respondent.

ALONGWITH

CONTEMPT PETITION(CIVIL) NO.177 OF 2004

Harishchandra J. ..Petitioner.

V/s.

Kaushal Kishore. ..Respondent.

ALONGWITH

CONTEMPT PETITION(CIVIL) NO.189 OF 2004

Ishwarbhai J. ..Petitioner.

V/s.

Kaushal Kishore. ..Respondent.

Mr.V.M.Parkar for petitioner.

Mr.Suresh Kumar for respondent.

CORAM: A.M.KHANWILKAR,J

DATE : APRIL 12, 2006.

P.C. :

1. Heard counsel for the parties.

2. Perused the pleadings. From the affidavit filed by the concerned officer, it transpires that

amount payable under the order passed by the Labour Court dated 30th September, 1992 has been offered to the petitioners. Out of 51 employees amount has already been paid to 47 employees at the time of filing of the affidavit. Subsequently, one more employee has been paid, who approached the concerned office. In that sense out of 51 employees, 48 employees have already been paid the amount in terms of order passed by the Labour Court dated 30th September, 1992. The remaining three employees are concerned, it is stated that they are not available for payment. As and when the said employees will approach the concerned office, Cheques already drawn in their favour will be made over to them. The concerned employees may approach the office within two weeks from today.

3. As the direction has now been complied with though there has been some delay, which is sought to be explained in the affidavit, it is not necessary to precipitate the matter any further.

4. Counsel for the petitioners however, contends that the amount, which is paid is not in accordance with the direction of the Labour Court. It is submitted that payment offered to the employees is

with effect from 1st August, 1974. Whereas they were entitled for payment towards overtime even for the earlier period. This submission has been rightly countered on behalf of the respondent relying on the direction issued by the Labour Court. The labour court has clearly order that the overtime wages will have to be calculated as per the Railway Boards' letter dated 11th June, 1974 (Exh.37). Copy of the said letter is produced on record. In paragraph 5 of the letter it is mentioned that the orders have been sanctioned and will take effect from 1st August, 1974. In other words, payment offered to the petitioner by the respondent is in accord with the direction of the Labour Court read with the circular referred dated 11th June, 1974. Accordingly, it is not a case of wilful disobedience of the order of the court. The Petition is disposed of. Notices issued to the respondent stand withdrawn on accepting assurance given by the respondent through counsel that payment will be offered to the remaining three employees as and when they approach the concerned office.

5. At this stage, the counsel for the petitioners submits that the respondent be directed to pay interest as the direction issued by the Labour

Court is dated 30th September, 1992, whereas the amount has been paid to the petitioners only now. For this delayed payment, the petitioners are entitled to interest. The counsel for the respondent however, submits that the delay has occasioned on account of non-compliance of certain formalities by the petitioners and not ascribable to inaction by the respondent. All these questions are left open. It will be open to the petitioners to take recourse to such remedy as permissible by law for direction to respondent to pay interest for the delayed payment. That aspect be considered on its own merits.